

DECISION



19788 Ayer
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-203579.2

DATE: October 19, 1981

MATTER OF: Mark A. Carroll & Son, Inc.--
Reconsideration

DIGEST:

Prior decision dismissing protest as untimely is affirmed since it is not shown to have been based on error of law or fact.

Mark A. Carroll & Son, Inc. (Carroll), requests reconsideration of our decision in Mark A. Carroll & Son, Inc., B-203579, June 29, 1981, 81-1 CPD 538, which dismissed its protest against the cancellation and resolicitation of project RNH 79518 as untimely.

We dismissed Carroll's protest as untimely because it was filed after the bid opening on the resolicitation.

In the request for reconsideration, Carroll admits "The cancellation was in accord with both the procurement regulations and the various rulings of the Comptroller General." Thus, Carroll's request for reconsideration apparently is directed against the resolicitation.


Carroll contends the protest is timely because the changes in the resolicitation required no change in cost and it was not apparent until after the opening of bids on the resolicitation that the low bidder was using Carroll's bid on the original solicitation as a target price to beat. However, Carroll had to know prior to bidding that the changes in the specifications did not require any change in price since it bid the same price on the resolicitation as it bid on the original solicitation. Further, as the original solicitation was an invitation for bids with a public opening of bids, Carroll would have had to know that the original bid results were a matter of public information. Therefore, the time to protest the resolicitation was prior to the opening of bids in the resolicitation.

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The decisions in 39 Comp. Gen. 396 (1959) and 40 Comp. Gen. 294 (1960), cited by Carroll, were prior to the institution of our Bid Protest Procedures setting timeliness standards for the filing of protests and the issue of timeliness was not involved in them. Therefore, those decisions are not relevant to our consideration here. Moreover, although Mark A. Carroll & Son, Inc., B-198295, August 13, 1980, 80-2 CPD 114, referred to by Carroll, was issued after the institution of our Bid Protest Procedures, timeliness was not an issue there and, therefore, that decision is not apropos here.

Carroll has failed to show that our decision of June 29, 1981, was based on any error of law or fact. Accordingly, the decision that the protest is untimely is affirmed. Interscience Systems, Inc., B-197000.2, October 27, 1980, 80-2 CPD 320.

for 
Comptroller General
of the United States